

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Parlin Post Office
Parlin, Colorado

Docket No. A2012-102

ORDER AFFIRMING DETERMINATION

(Issued April 6, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On December 22, 2011, Ruth E. and Laurence E. Dolezal (Petitioners Dolezal) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Parlin, Colorado post office (Parlin post office).² Additional petitions for review were received from Sara S. Swartz (Petitioner Swartz), Claire St. John (Petitioner St. John), Leon K. Oltmann (Petitioner Oltmann), James B. Katheiser (Petitioner Katheiser), and Judith Ebaugh (Petitioner Ebaugh).³ The Final Determination to close the Parlin post office is affirmed.⁴

II. PROCEDURAL HISTORY

On January 5, 2012, the Commission established Docket No. A2012-102 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

On January 6, 2012, the Postal Service filed the Administrative Record with the Commission.⁶ On February 22, 2012, the Postal Service filed comments requesting

² Petition for Review received from Ruth E. and Laurence E. Dolezal regarding the Parlin, Colorado Post Office 81239, December 22, 2011 (Dolezal Petition).

³ Petition for Review received from Sara S. Swartz regarding the Parlin, Colorado Post Office 81239, December 27, 2011 (Swartz Petition); Petition for Review received from Claire St. John regarding the Parlin, Colorado Post Office 81239, January 5, 2012 (St. John Petition); Petition for Review received from Leon K. Oltmann regarding the Parlin, Colorado Post Office 81239, January 10, 2012 (Oltmann Petition); Petition for Review received from James B. Katheiser regarding the Parlin, Colorado Post Office 81239, January 17, 2012 (Katheiser Petition); Petition for Review received from Judith Ebaugh regarding the Parlin, Colorado Post Office 81239, January 20, 2012 (Ebaugh Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1103, Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 5, 2012.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, January 6, 2012 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Parlin, CO Post Office and Extend Service by Highway Contract Route Service (Final Determination).

that the Commission affirm its Final Determination together with a motion for late acceptance of its comments.⁷

Petitioners filed participant statements supporting their Petitions.⁸ The Board filed a Notice of Intervention on January 31, 2012.⁹ On March 2, 2012, the Board filed a reply brief¹⁰, and on March 6, 2012, Petitioner Oltmann filed a reply brief.¹¹ On March 27, 2012, the Public Representative also filed a reply brief, accompanied by a motion for the late acceptance of reply comments.¹²

III. BACKGROUND

The Parlin post office provides retail postal services and service to 20 post office box customers. Final Determination at 2. Forty-one delivery customers are served through this office. *Id.* The Parlin post office, an EAS-11 level facility, provides retail service from 7:00 a.m. to 3:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday. *Id.* Lobby access hours are 24 hours Monday through Saturday. *Id.*

⁷ United States Postal Service Comments Regarding Appeal, February 22, 2012 (Postal Service Comments). See also Motion of the United States Postal Service for Late Acceptance of Comments Regarding Appeal, February 22, 2012. The Board of County Commissioners of the County of Gunnison, Colorado (Board) filed an objection. Objection to the “Motion of the United States Postal Service for Late Acceptance of Comments Regarding Appeal”. The Commission granted the Postal Service’s motion. See Order No. 1266, Order Granting Motion for Late Acceptance of Comments and Modifying the Procedural Schedule, March 1, 2012.

⁸ Participant Statement received from Ruth E. and Laurence E. Dolezal, January 25, 2012 (Dolezal Participant Statement); Participant Statement received from Leon K. Oltmann, January 31, 2012 (Oltmann Participant Statement); Participant Statement received from Claire St. John, February 2, 2012 (St. John Participant Statement); Participant Statement received from Judith Ebaugh, February 10, 2012 (Ebaugh Participant Statement).

⁹ Notice of Intervention by the Board of County Commissioners of the County of Gunnison, Colorado, January 31, 2012 (Notice of Intervention).

¹⁰ Reply Brief of the Board of County Commissioners of the County of Gunnison, Colorado, March 2, 2012 (Board Reply Brief).

¹¹ Reply Brief of Leon K. Oltmann, March 6, 2012 (Petitioner Oltmann Reply Brief).

¹² Reply Brief of the Public Representative, March 27, 2012 (PR Reply Brief). See also Motion of Public Representative for Late Acceptance of Reply Comments, March 27, 2012. That motion is granted.

The postmaster position became vacant on April 24, 2010 when the Parlin postmaster was promoted. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 7. Retail transactions average six transactions daily (8 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$10,953 in FY 2008; \$12,824 in FY 2009; and \$11,393 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$49,279 annually. *Id.* at 7.

After the closure, retail services will be provided by the Gunnison post office located approximately 12 miles away.¹³ Delivery service will be provided to cluster box units (CBUs) by highway contract route service through the Gunnison post office. *Id.* The Gunnison post office is an EAS-20 level office, with retail hours of 7:30 a.m. to 5:15 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. *Id.* Five hundred and ten post office boxes are available. *Id.* The Postal Service will continue to use the Parlin name and ZIP Code. *Id.* at 2, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Parlin post office. Petitioners contend that the post office plays a vital role in the Parlin community. See, e.g., Dolezal Petition at 1; St. John Petition at 1; Notice of Intervention at 4; Board Reply Brief at 3. Petitioners object to having to travel over 20 miles round-trip to another post office to obtain services. See, e.g., Ebaugh Petition at 2; St. John Participant Statement at 1; Oltmann Petition at 1; Oltmann Reply Brief at 1. Petitioners contend that highway contract route service will not provide them with the required maximum degree of regular and effective postal services. Board Reply Brief at 4; Oltmann Reply Brief at 1. Petitioners question the Postal Service's calculation of economic savings. See, e.g., Ebaugh Petition at 1; Dolezal Participant Statement at 2; Notice of Intervention at 4;

¹³ *Id.* at 2. MapQuest estimates the driving distance between the Parlin and Gunnison post offices to be approximately 16.9 miles (22 minutes driving time).

County Commissioners Reply Brief at 4; Oltmann Reply Brief at 1-2. Petitioner Oltmann objects to the loss of the postmaster position in Parlin. Oltmann Participant Statement at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Parlin post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services, (2) the impact on the Parlin community, and (3) the economic savings expected to result from discontinuing the Parlin post office. *Id.* The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Parlin post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Parlin post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 7. The Postal Service contends that it will continue to provide regular and effective postal services to the Parlin community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Parlin community, economic savings, and effect on postal employees. *Id.* at 23.

Public Representative. The Public Representative states that the Postal Service has complied with the statute and its own rules and that effective and regular service, albeit with some inconvenience to customers, will be maintained after the closure of the

Parlin post office. PR Reply Brief at 7. However, he asserts that the Final Determination is inadequate as it relates to the calculation of economic savings, which are overstated. *Id.* Nevertheless, the Public Representative concludes that the economic savings to the Postal Service are positive and that the Final Determination should be affirmed. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 28, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Parlin post office. Final Determination at 2. A total of 60 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 25 questionnaires were returned. *Id.* On April 13, 2011, the Postal Service held a community meeting at the Ohio City School/Museum to address customer concerns. *Id.* Thirty-nine customers attended. *Id.*

The Postal Service posted the proposal to close the Parlin post office with an invitation for comments at the Parlin, and Gunnison post offices from May 9, 2011 through July 10, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from December 9, 2011 through January 10, 2012. Administrative Record at .pdf pp.184-85.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Parlin, Colorado is an unincorporated community located in Gunnison County, Colorado. Administrative Record, Item No. 16. The community is administered politically by Gunnison County. *Id.* Police protection is provided by Gunnison County. *Id.* Fire protection is provided by Gunnison County. *Id.* The community is comprised of ranchers. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Parlin community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Parlin post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 6-7.

Petitioners contend that closure of the post office will be detrimental to the Parlin community. See, e.g., Dolezal Petition at 1; St. John Petition at 1; Notice of Intervention at 4. The Postal Service responds that a community's identity derives from the interest and vitality of its residents, and states that Parlin residents may continue to use the Parlin name and ZIP Code. Postal Service Comments at 15.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Parlin postmaster was promoted on April 24, 2010 and that an OIC has operated the Parlin post office since then. Final Determination at 7. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Parlin post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Parlin customers. Postal Service Comments at 8. It asserts that customers of the closed Parlin post office may obtain retail services at the Gunnison post office located 12 miles away. Final Determination at 2. Delivery service will be provided to CBUs by highway contract route service through the Gunnison post office. *Id.* The Parlin post office box customers may

obtain Post Office Box service at the Gunnison post office, which has 510 boxes available. *Id.*

For customers choosing not to travel to the Gunnison post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 10. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners object to having to travel over 20 miles round-trip to another post office to obtain services. See, e.g., Ebaugh Petition at 2; St. John Participant Statement at 1; Oltmann Petition at 1. Petitioners contend that they will no longer be provided the required maximum degree of regular and effective postal services. County Commissioners Reply Brief at 4; Oltmann Reply Brief at 1. The Postal Service responds that the highway contract route carrier will provide residents with regular and effective postal services. Postal Service Comments at 9-10.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$49,279. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$5,000) minus the cost of replacement service (\$0). *Id.* The Postal Service states that a one-time expense of \$2,000 will be incurred for the movement of this facility. *Id.*

Petitioners question whether the Postal Service's estimated economic savings will make a difference in light of the fact that rural post offices make up very little of its total budget. See, e.g., Ebaugh Petition at 1; Dolezal Participant Statement at 2; Oltmann Reply Brief at 2. The Postal Service responds that it conducted its standard financial analysis. Postal Service Comments at 17.

The Public Representative asserts that the Postal Service has overstated its calculation of economic savings. PR Reply Brief at 7. He states that the Postal Service has employed an OIC to run the Parlin post office for 2 years and is currently operating under a hiring freeze precluding the hiring of a postmaster. *Id.* at 9. He contends that

the salary that should be factored into the calculation of economic savings is that of the OIC, not a postmaster. *Id.* The Postal Service takes the position that “it was appropriate to use a career Postmaster’s salary in the calculation because it is the proper measure of the loss of a permanent position and the career position would ultimately have been filled if the Parlin Post Office had not been identified as a candidate for discontinuance. Thus, the Postal Service will save the salary and benefits of a career Postmaster position.” Postal Service Comments at 18.

The Parlin post office postmaster was promoted on April 24, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Parlin post office has been staffed by an OIC for approximately 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service’s determination to close the Parlin post office is affirmed.¹⁴

¹⁴ See footnote 4, *supra*.

It is ordered:

The Postal Service's determination to close the Parlin, Colorado post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Parlin post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster was promoted on April 24, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

In addition, the economic analysis contained in the Final Determination does not explicitly account for the costs of replacement rural or contract delivery service for the 20 customers currently provided post office boxes.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

I am also concerned about the distances between the Parlin post office and the Gunnison post office offered as a substitute. The Gunnison post office is 16.9 miles

driving distance from Parlin, according to MapQuest. Several members of Congress have publicly expressed concern that post offices that are 10 miles apart should be maintained in rural areas, and recent legislation has been introduced precluding the closure of a post office in cases where the nearest post office is more than 10 miles away. The Postmaster General has expressed interest in finding other ways to serve such distant post offices rather than close them altogether. And the Commission in its recent Advisory Opinion (Docket No. N2011-1) found that using optimization modeling, the Postal Service could make better choices about which post offices to close that would assure adequate access in rural areas. This closing should be reconsidered within the context of the policies now being developed regarding distant rural post offices.

The designation of the administrative receiving office can be significant to local postal customers because that will be the location where undeliverable or accountable items are retrieved, where some parcels must be deposited, or certain other “in-person” business is conducted. The Administrative Record does not address with specificity reasonable customer concerns about the large travel distance to the new administrative retail office in Gunnison. Without a more complete explanation of how removing the applicable retail facility to such a distant point will affect the community, the Postal Service has not satisfied its obligation to consider the effect of such closing or consolidation on the community served by the post office, as required by 39 U.S.C. § 404(d)(2)(a)(i).

The Administrative Record describes that a postal retail facility in nearby Ohio City, Colorado was closed, and public comments suggest that the community has a heightened dependence on Parlin for its retail postal services. Neither the Administrative Record nor the Final Determination discusses the impact on the households that rely on the Parlin post office in the absence of the Ohio City postal facility. Where post offices close, the effect on residents from the closure of nearby post

offices is amplified, and it is the responsibility of the Postal Service to weigh the impact on those communities and the added inconvenience to customers.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Parlin, Colorado and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for nearly 2 years, since April 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

It also appears that the Final Determination does not take into consideration the cost for providing the replacement service given that there are currently 20 post office box holders who may convert to highway contract delivery. See Final Determination at 7. The Postal Service should adjust the economic savings to reflect the cost of replacement service, which surely must be greater than \$0.

In addition, as noted by the Gunnison Board of County Commissioners and two petitioners, the Postal Service repeatedly advised "that nonpostal services provided at the Bairollo Post Office will be available at the Rowllins Post Office," both of which are located in the State of Wyoming. Final Determination, Concern No. 1 at 2; Concern No. 1 at 6; Administrative Record, Item 23, Concern Nos. 1, 2, 7-9 at 3. The Postal Service states that "[b]oth the Proposal (Item No. 33 at 2), and the Final Determination (Item 46 at 2) unequivocally state that upon implementation of the final determination, delivery and retail service will be provided by Gunnison Post Office." Postal Service Comments at 22 n.51.

However inadvertent, repeated errors may provide postal customers with a sense that the Postal Service is not giving careful consideration to their concerns. As I have mentioned in previous post office appeal cases, public perception is an important aspect of all discontinuance studies. The Postal Service and the customers they serve benefit by addressing all issues accurately and fully during such studies.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Parlin post office and should be remanded.

Nanci E. Langley